

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

OSCAR RAMIREZ, JAVIER GUERRERO,  
GERONIMO HERCULANO, PABLO RUTILIO,  
MAGGIE ANDRES CRECENCIO, GUILLERMO ALVAREZ,  
JUANA CRUZ HERNANDEZ, LEONIDAS MATEO,  
ANYELI OVALLES HERNANDEZ, MIRNA REYES  
MARTINEZ, RAMON ROSARIO, OMAR TAVERAS,  
LUIS ESPINAL, and JUAN SALMERON on behalf of  
themselves and others similarly situated,

**No.: 14 -cv- 4030**

**Hon. Valerie E. Caproni**

**AFFIDAVIT OF MAGGIE ANDRES  
CRECENCIO IN SUPPORT OF  
PLAINTIFFS' REQUEST FOR  
CONDITIONAL CLASS  
CERTIFICATION**

Plaintiffs,

v.

M L RESTAURANT, CORP., M.L. SAN JOSE ENTERPRISES, CORP.,  
d/b/a LIBERATO RESTAURANT, ANTONIO MANUEL LIBERATO,  
FERNANDO LIBERATO, VICTOR LIBERATO, NELSON GOMEZ,  
LUCY GOMEZ, SARAH VALLEJO, NANA (LNU), and ROMEO (LNU)  
jointly and severally,

Defendants

State of New York )

) ss.:

County of New York )

MAGGIE ANDRES CRECENCIO, residing at 2200 Walton Ave., Apt #6F, Bronx, New York, being duly sworn, deposes and says:

1. On or about July 28, 2009 I was hired by Liberato Restaurant.
2. Liberato Restaurant is an establishment with locations at 1 West 183<sup>rd</sup> Street and 10 West Burnside Avenue, County of the Bronx, State of New York.
3. I work the dayshift at the 1 West 183<sup>rd</sup> St. location behind the counter doing various tasks including taking phone orders, preparing food, and serving customers directly.

4. On my shift approximately a dozen other people work with me in the front of the restaurant, sometimes more.

5. Over my years at Liberato I have worked nine (9) hours a day, five (5) or six (6) days per week. I am paid in cash at the end of each week. In addition to wages, I receive a share of tips from the tip pool every day.

6. From on or about July 28, 2009 to December 31, 2011, I was paid \$210 in wages for fifty-four (54) hours a week.

7. From on or about January 1, 2012 to January 31, 2014, I was paid \$240 in wages for fifty-four (54) hours a week.

8. In February 1, 2014 I started to be paid \$200 in wages for forty-five (45) hours a week.

9. On at least two (2) days a week, for approximately three (3) hours a day, I work in the basement preparing salads and juices.

10. When working behind the counter, I receive tips from customers.

11. When I receive tips, the manager requires that I give them to him or her to hold until the end of shift. At the end of the shift, the manager returns the pooled tips to the workers to divide up.

12. No manager ever explained to me how the tip pool works.

13. When the tips are distributed we do not receive any record of the tips we receive.

14. When the sandwich maker or deli person has a day off, all the counter people are required to share tips with the substitute sandwich maker or deli person, who do not serve customers directly.

15. I know of no Liberato worker at the 183<sup>rd</sup> St location who receives overtime pay when they work more than forty (40) hours per week.

16. For my first two years working at Liberato, I was not allowed to take any break. I am now allowed one break of ten (10) to fifteen (15) minutes to eat. This is true of my coworkers also.

17. I do not receive any statement or record when I am paid. I do not know of any Liberato worker who does.

18. To receive my pay, since 2010, I must sign in a book kept by the manager Lucy. The book states the name and address of the restaurant, my name, and that I work forty (40) hours at five (5) dollars an hours. This is incorrect. It also states that I receive \$150 in tips, but I never received so much in tips. We all know the book is incorrect, but everyone must sign the book.

19. I believe that my coworkers and I are treated similarly.

WHEREFORE, it is respectfully urged that the request for conditional certification of a representative class be granted.

Sworn to before me this

29<sup>th</sup> day of September 2014.

Maggie Andres C.

MAGGIE ANDRES CRECENCIO

Rebecca Ishak

Notary Public

REBECCA T. ISHAK  
Notary Public, State of New York  
No. 01IS6286012  
Qualified in Queens County  
Commission Expires July 22, 2017